

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America for the use  
and benefit of Curtis C. Davis d/b/a  
Davis Contracting Company,

Plaintiff,

vs.

Persons Service Company, LLC, Byrd  
Brothers Emergency Services, LLC, and  
Travelers Casualty and Surety Company  
of America,

Defendants,

Travelers Casualty and Surety Company  
of America,

Cross-Claimant and Third-Party Plaintiff,

Byrd Brothers, Inc., Claude R. Byrd, James  
K. Byrd, and Donna R. Byrd,

Third-Party Defendants.

Brothers Emergency Services, LLC,

Cross-Defendant

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Case No. 4-12-cv-153

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Before the Court is Cross-Claimant and Third-Party Plaintiff Travelers Casualty and Surety Company of America's ("Travelers") Motion for Default Judgment filed on August 7, 2017. See Docket No. 80. In the motion, Travelers seeks a default judgment against Cross-Defendant Byrd Brother Emergency Services, LLC ("BBES") and Third-Party Defendants Byrd Brothers, Inc., ("BBI"), Claude R. Byrd, James, K. Byrd, and Donna R. Byrd ("collectively the Byrds"), jointly and severally, in the amount of \$727,767.85.

On November 17, 2017, Magistrate Judge Charles S. Miller, Jr. issued a Report and Recommendation wherein he recommended granting in part and denying in part Travelers' motion. See Docket No. 81. The parties were given fourteen (14) days to file any objections to the Report and Recommendation. No objections were filed.

The Court has carefully reviewed the Report and Recommendation, the relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. The Court agrees with Judge Miller that Travelers is entitled to entry of a default judgment but that additional information is needed regarding the amount of the judgment. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 81) in its entirety. Travelers' motion (Docket No. 80) is **GRANTED IN PART** to the extent it seeks a default judgment and **DENIED IN PART** to the extent it seeks the currently requested \$727,767.85. Travelers will have thirty (30) days from the date of this order to supplement the record with additional information pertaining to the purposes of the payments made and to demonstrate to Court that the amounts requested are collectable under whichever state law is to apply to this action.

**IT IS SO ORDERED.**

Dated this 5th day of December, 2017.

/s/ Daniel L. Hovland  
Daniel L. Hovland, Chief Judge  
United States District Court